



Cybersecurity and Civil Liberties: “Information Sharing”

- **The Issue:** Certain government agencies and corporations claim that current privacy laws prohibit corporations from sharing information necessary to thwart attacks from hackers, internet criminals, and foreign governments. They propose creating an exception to privacy laws so that Americans’ internet use information, including sensitive personally identifiable information (“PII”), can be shared between companies and with the government.
- **The Problem:** Legislative proposals in the 112th Congress take differing approaches to facilitating information sharing. Some are so broad that they permit companies to provide Americans’ correspondence and personal details to military agencies, like the National Security Agency. Some of the proposals also lack meaningful limits on the use, dissemination or retention of Americans’ personal information obtained by the government.
- **The Solutions:** If Congress passes legislation that changes our privacy laws for cybersecurity purposes, it must protect privacy in the following ways:
 - **Narrowly define what privacy laws it will contravene.** Congress must carefully consider what privacy laws truly inhibit necessary information sharing and craft narrow exceptions limited to just those critical circumstances.
 - **Assign governmental cybersecurity efforts to a civilian agency.** Congress must not empower military or intelligence agencies such as the National Security Agency to collect the internet usage data of Americans. Cybersecurity efforts on American soil should be led by the private sector, and any government information collection must be coordinated by a civilian agency.

- Require companies to remove personally identifiable information from data they share with the government. While sharing technical data can take place without implicating civil liberties, a presumption of privacy should protect PII. Sharing PII should be an exception and not the norm, and should occur only under limited exceptions to cover legitimate emergencies or other narrowly defined situations.
- Limit government use of information shared for cybersecurity purposes. Cybersecurity information sharing should not become a windfall of data for the federal government to use as it pleases. Any information shared with the government must have strict use limitations to ensure that this new program doesn't become an end run around privacy laws that would otherwise offer stronger protections.
- Create an oversight and accountability structure that includes public and congressional reporting. The executive branch must provide regular, substantive and public reporting, ideally by multiple inspectors general, agency privacy officers, and once it has been fully constituted, the Privacy and Civil Liberties Oversight Board.